

REMARKS

This communication is made in response to the restriction requirement dated August 17, 2010 (the Restriction Requirement). Currently, claims 1-19, 21, 25, 26 and 29 are pending. Claim 9 is amended herein for antecedent basis.

The Restriction Requirement separated the claims into Groups A_n (claims 2-15, 21, 25-26 and 29) drawn to a single combination of fusion protein, with a component A drawn from the list of components A recited in the claims and component B selected from the list of components B recited in the claims. Groups B₁₋₁₃ (claims 16-19) drawn to a nucleic acid encoding amino acid and Groups C₁₋₁₃ claim 19 drawn to a method of effecting the growth of cells. Claim 1 was not listed in the Groups and is generic to all of the Groups.

In response, Applicant elects Group A_n having claims 2-15, 21, 25-26 and 29. Further election is made for DAP-kinase (in claim 7) as component B. For component A, antibodies, antibody derivatives, antibody fragments, and scFv structures are elected (claim 2); please note that these elected component A species are equivalents for purposes of the claims and are not distinct from each other. Since claim 1 is generic to this Group, its examination with the Group is requested. The election reads on claims 2-5, 7-8, 10-11, 13-15, 21, 25-26 and 29; these claims are listed only to facilitate examination and no substantive admissions are made.

The Restriction Requirement is very respectfully traversed on the grounds that larger groups could reasonably be searched without undue investment of searching time. As a second grounds of traversal, Applicant insists that it has a right to have generic claim 1 examined and that Applicant's election of species as set forth herein facilitates a reasonable process for searching the same. Accordingly, the Examiner is requested to treat the election of component A as a species election and to examine all components A that comprise "a binding domain for extra-cellular surface structures that internalize upon binding of component A of said complex"

(claim 1). Since component B has been elected, a search can be reasonably undertaken for a Dap-kinase in combination with components A that comprise a binding domain for extra-cellular surface structures that internalize upon binding of component A of said complex. This suggestion is not an admission of any kind.

Applicant further traverses the Restriction Requirement on the grounds that the special technical feature further includes wherein the “complex is synthetic, soluble, and endogenous” (claim 1). As discussed in the Application at page 8 line 15 to page 9, line 4, the relevant molecules set forth in US 5,670,324 cited in the Restriction requirement are not synthetic, soluble, and endogenous. Accordingly, it is respectfully submitted that the basis for the Restriction Requirement is incorrect.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

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